

State of Montana

DRAFT

NSP SUBSTANTIAL AMENDMENT PLAN YEAR 2008 ANNUAL ACTION PLAN



Governor Brian Schweitzer

Investing in Montana's Communities

DEPARTMENT OF COMMERCE

Anthony Preite, Director

Community Development Block Grant Program

Home Investment Partnerships Program

DEPARTMENT OF PUBLIC HEALTH & HUMAN SERVICES

Joan Miles, Director

Emergency Shelter Grant Program

DRAFT
Amendment to:
Plan Year
April 1, 2008
through
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**DRAFT for Public
Comment**

Prepared by:

Community Development and Housing Divisions
Montana Department of Commerce
301 S. Park Avenue, P.O. Box 200545
Helena, MT 59620-0545
(406) 841-2817
www.housing.mt.gov



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Phone: (406) 841-2820
Fax: (406) 841-2810
TDD: (406) 841-2702
Montana Relay Services number: 711.**

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**STATE OF MONTANA
DRAFT NSP SUBSTANTIAL AMENDMENT
PLAN YEAR 2008 ANNUAL ACTION PLAN**

DRAFT FOR PUBLIC COMMENT

Jurisdiction: State of Montana Department of Commerce	NSP Contact Person: Jennifer Olson CDBG Program Specialist
Web Address for NSP Amendment: http://housing.mt.gov/Hous_CP_Apps.asp	Address: Department of Commerce Community Development Division 301 S. Park Ave; P.O. Box 200523 Helena, MT 59620-0523 Telephone: (406) 841-2773 Fax: (406) 841-2771 Email: jeolson@mt.gov
Web Address for Additional Materials: http://comdev.mt.gov/CDD_CDBG_NSP.asp	
<u>Web Addresses for Local Action Plans</u> City of Billings Annual Action Plan FY2008-2009: http://mt-billings.civicplus.com/DocumentView.asp?DID=3950 City of Great Falls Annual Action Plan 2008/2009 Program Year: http://www.greatfallsmt.net/people_offices/cdev/cdbg/actionplan0809.pdf City of Missoula Program Year 2008 Action Plan ftp://www.co.missoula.mt.us/opgftp/Documents/Grants/ActionPlan/ActionPlan08.pdf	

INTRODUCTION

This document is a substantial amendment to the Annual Action Plan for Federal Fiscal Year (FFY) 2008 submitted by the State of Montana. The Action Plan is the annual update to the Consolidated Plan for FFY 2005 through 2010. The Consolidated Plan is the document the Montana Department of Commerce is required to prepare and submit to the U.S. Department of Housing and Urban Development (HUD) as a precondition to receiving funds for the Congressionally funded Community Development Block Grant (CDBG) Program, Home Investment Partnerships (HOME) Program, and Emergency Shelter Grant (ESG) Program.

This amendment to the FFY 2008 Annual Action Plan outlines the expected distribution and use of \$19,600,000, allocated to Montana by HUD, through the newly-authorized Neighborhood Stabilization Program (NSP). The NSP funds were authorized by the Housing and Economic Recovery Act of 2008 (HERA), signed into law on July 30, 2008 by President Bush, as an adjunct to the CDBG Program.

The Montana Department of Commerce (MDOC) will administer the NSP funds through the Community Development Division (CDD) CDBG Program, which will work to expeditiously deliver these funds to eligible grantees.

Since the MDOC began administering the State CDBG Program in 1982, the program has always placed a great emphasis on responding to locally identified needs and priorities that are consistent with the purposes of the CDBG program. The original task force of local officials that was appointed to develop the framework for the program recommended that applicants be required to prepare a community needs assessment and establish priorities for addressing those needs. This was two years before Congress amended the Federal Housing and Community Development Act in 1984 to require that each CDBG recipient "identify its community development and housing needs, including the needs of low and moderate income persons, and the activities to be undertaken to meet such needs." Montana's CDBG Program has always emphasized a bottom-up, rather than a top-down, process for identifying worthy and needed CDBG projects. The MDOC plans to continue to follow this same process for the Neighborhood Stabilization Program in order to allow the areas of greatest need in the State the ability to prioritize locally identified needs and complete NSP eligible activities during the limited timeframe allowed for implementation of the program.

Since the signing of HERA, on July 30, 2008, MDOC has been soliciting comments from local governments, Tribes, and non-profit organizations across the state, in regards to how best Montana can implement the new Neighborhood Stabilization Program. MDOC gave presentations at the annual Montana Association of Counties conference in September in Hamilton and the League of Cities and Towns annual conference in October in Missoula. The majority of county, city, town officials attending these conferences were informed of the new infusion of NSP funds in the State and were invited to offer comments. As a result, many cities, towns and counties have submitted project ideas to MDOC. MDOC also participated in four statewide housing workshops, in October, to present the NSP information. As a result, numerous non-profits have submitted comments and letters offering testimony on Montana's housing concerns and needs to MDOC. Additionally, MDOC participated in a conference call with five of the Tribes in Montana, the Governor's Office of Economic Development and HUD field representatives in October. As a result, the Tribes are setting up a meeting to discuss how NSP funds can be used for them. MDOC has spent a good amount of time spreading the word about NSP funds and the local governments, Tribes and non-profits have responded. These responses have assisted MDOC's preparation of this amendment.

In addition, MDOC has scheduled a state-wide opportunity for public comment through a combined Go-to-meeting (conference call) and METNet (teleconferencing). MDOC staff will present this amend and provide an opportunity for comments.

MDOC will work directly with local governments and Montana's Indian Tribes to determine the best strategy to utilize and distribute the funds as quickly as possible, based on community priorities. In all cases, the underlying distribution and use of funds

will be dictated by the eligible uses and eligible activities set forth in the NSP Federal Register Notice (hereafter referred to as the Notice), which was published on October 6, 2008. A flexible approach is needed to develop viable projects in all high need areas. Montana is a vast, diverse state and there are many challenges in developing projects in small, rural communities. HERA states that state governments should use their best judgment to serve those areas not receiving a direct allocation. As acknowledged in HERA “states will be given maximum feasible deference in accordance with 24 CFR 570.480 (c) in matters relating to the administration of the NSP program.”

The purpose of the NSP funds is to address the negative ramifications of the housing crisis that has occurred over the past five years which, nationally, resulted in significant numbers of homeowners entering into foreclosure and, in some cases, entire neighborhoods of some cities becoming vacant and abandoned. Fortunately, the number of subprime mortgages, in Montana, is significantly below the national average and Montana has not exhibited the same level of housing foreclosures as other areas of the nation. According to data provided by HUD, during the past 18 months the State had a total of 191,311 mortgages. Out of the 191,311 mortgages, 1.8% resulted in foreclosure starts, 0.5% are in default, and 5.5% were subprime loans.

While Montana may not be experiencing the same level of severe foreclosure and subprime lending problems that have occurred elsewhere, Montana still has significant affordable housing and related community development needs which are as different as the state is vast and diverse. Potentially, many of these needs can be addressed with the emergency NSP funding.

In low growth areas of Montana there are large numbers of homes that are vacant or blighted. About 25% of the housing units statewide are in poor condition.¹ While many of these homes are considered unsuitable for habitation, some are still occupied. The eligible uses of NSP would allow Montana communities and tribes to address this housing issue through demolition and the provision of replacement housing, while at the same time, allowing new opportunities for redevelopment of vacant properties.

In high growth areas, the lack of affordable housing is causing problems that effect individual families, businesses, communities and the State. Homelessness, generated by a shortage of affordable housing units, is impacting many communities. In 2007, over 50% of the state’s homeless population were families.² Also, many of these same areas are having difficulties hiring teachers, nurses, law enforcement officers, and other related service personnel because there is either no decent, safe and sanitary housing or the area home prices require an unacceptably high percentage of the family’s income be used toward housing expenses, making the housing unaffordable for middle income workers.

¹ Montana Housing Condition Study, Montana Department of Commerce, February 2005, http://housing.mt.gov/Hous_CP_HsgCondStdy.asp

² Housing in Montana; The White Paper, Housing Coordinating Team, September 2008, http://housing.mt.gov/Includes/HCT/Final_White_Paper.pdf

Furthermore, across the state, many residents find that mobile homes or manufactured housing are the only affordable housing option. Unfortunately, many mobile home parks are being sold because the land is in demand for conversion to other more profitable uses. The effect is that many residents are displaced and lose their home because they cannot find an acceptable alternative site. At the same time, many of the mobile homes were built before 1976, when minimum HUD construction standards were adopted. Many of these units are deteriorated, not energy efficient and unsafe for residents. The attached map ([Appendix A](#), page A-1) shows the distribution of mobile homes in the state. The NSP eligible activities would allow the removal of blighted properties and the opportunity for the development of permanent affordable housing for families.

According to HUD, NSP funds must be focused on areas of greatest need and for projects that will have a meaningful impact on communities. The Notice states, “NSP funds will be used to meet the congressionally identified needs of abandoned and foreclosed homes in the targeted areas set forth in the grantee’s substantial amendment.” HERA requires that NSP funds be targeted to areas of greatest need within the State of Montana and be used or obligated within 18 months. As described in HERA, NSP funds must be used or obligated within 18 months of receipt of the grant. The Notice states, “Funds are used when they are obligated by a state, unit of general local government, or any subrecipient thereof, for a specific NSP activity.” The term obligation is defined in 24 Code of Federal Regulations (CFR) Part 85.3, “Obligations means the amounts of orders placed, contracts and subgrants awarded, goods and services received, and similar transactions during a given period that will require payment by the grantee during the same or a future period.” If the funds are not used or obligated for a specific NSP project or activity within 18 months of receipt of the grant, HUD will recapture the amount of the unused funds. Therefore, MDOC will implement an obligation-based grant approach for the NSP projects, to ensure that the \$19.6 million of NSP funds is used or obligated during the 18 month timeframe.

As is more fully described below and in response to HUD’s requirements, MDOC intends to issue a request for proposals (RFP) as a means of allocating the State’s Direct NSP Allocation through an initial funding round. Additional proposals may be solicited through subsequent funding rounds, depending upon the number of eligible proposals that are received and the available balance of uncommitted State of Montana NSP funds.

A. Areas of Greatest Need

HERA mandates that grantees that receive NSP funding (the State) distribute funds to the areas of greatest need, which are defined as:

- Those with the greatest percentage of home foreclosures;
- Those with the highest percentage of homes financed by a subprime mortgage loan; and,

- Those identified by the State or unit of general local government as likely to face a significant rise in the rate of home foreclosures.

The Notice states, “The grantee’s narrative must address the three need categories in the NSP statute, but the grantee may also consider other need categories.”

Montana has chosen to establish four need categories in response to public comments received at the statewide workshops held in October. The categories are areas with:

- 1) The greatest percentage of foreclosures;
- 2) The greatest percentage of homes financed by a subprime mortgage loan;
- 3) A significant rise in the rate of home foreclosures; and
- 4) A significant amount of blight (as defined within this amendment).

MDOC will use the NSP funds for the purposes set forth in HERA – to promote neighborhood stabilization where subprime lending, foreclosure, and blight have negatively affected the housing market. Accordingly, MDOC will give priority to those applicants that can target NSP resources to neighborhood stabilization projects that will address these problems in areas with the greatest needs while meeting the Low, Moderate and Middle Income (LMMI) NSP Objective. NSP allows eligible activities to provide a benefit that will assist families that are at or below 120 percent of area median income (AMI) or LMMI. HUD has provided the LMMI limits. The following link will provide the LMMI limits for Montana:

<http://comdev.mt.gov/Includes/CDBG/MT08NSPIncomeLimits.pdf>

MDOC will use the following sources of data to define areas of greatest need:

1. HUD Risk Score – Measures the estimated foreclosure and abandonment risk of every Census Block Group in the State. This score includes data to assess areas with the greatest percentage of home foreclosures, the highest percentage of homes financed by a subprime mortgage-related loan, and identified as likely to face a significant rise in the rate of home foreclosures. The HUD Risk Score also address all of the statutorily required needs factors. This score is scaled from 0 to 10, with 10 being the highest or greatest risk. A complete listing of the risk score and data for each Census Block Group is available at the following website:

http://www.huduser.org/publications/commdevl/excel/MT120_LM.xls

2. Montana Department of Revenue Property Physical Condition Database – The Computer Assisted Mass Approval (CAMA) data provides the information regarding blighted properties in Montana. It includes data on the number of unsound and very poor dwellings identified, by municipality, compared to the total number of dwellings in the municipality. The percentages ranged from 0.00% to 69.93%. A complete listing of this data is available at the following website:

http://comdev.mt.gov/CDD_CDBG_NSP.asp

The State has established the following definitions of “Greatest Need Areas.”

- **Qualified Need Areas:** MDOC has determined that any applicant for NSP funds must have within its geographic jurisdiction a Census Block Group with a HUD risk score of one (1) or higher, or be located in a county with subprime mortgages totaling at least 1.0% or higher, or demonstrate that the percentage of blight is at least 1.0%. All applicants must show that their jurisdictions meet the “Qualified Need Area” level of need, which constitutes the threshold of eligibility for NSP funds. Local, State or HUD data can be used to define the area that is a Qualified Need Area as further defined in this amendment.
- **Priority Need Areas:** MDOC has determined that jurisdictions with a risk score of five (5) or higher or blight score of 5.5% or higher will be deemed as Priority Need Areas. Applicants from the Priority Need Areas will receive priority consideration in the funding distribution and award process. These applicants do not have to restrict their activities to only the Priority Need Census Block Groups, but must demonstrate how the activities they undertake will address the intent of Neighborhood Stabilization.

The following websites will provide access on the HUD and State data regarding the areas of greatest need:

- http://comdev.mt.gov/CDD_CDBG_NSP.asp
- <http://www.huduser.org/publications/commdevl/nsp.html>

B. Distribution and Uses of Funds

Distribution Process

MDOC will use a Request for Proposals (RFP) process to solicit proposals from local governments, Tribes, and other eligible recipients to implement projects on a local level, and will rely on the areas of greatest need (as described in the previous section) to focus the allocation of NSP funds, as required by the Notice. This decision was made based on the following reasons:

- Given the emergency nature of the assistance, and the short time frame permitted to publish and prepare this Amendment (i.e., HUD Notice issued on October 6, 2008, plan amendments required to be published for public comment by November 13, 2008, and submission of the plan required by December 1, 2008);
- The HUD requirement to obligate NSP funds within 18 months of HUD’s approval of this Amendment;
 - As described in HERA, NSP funds must be used or obligated within 18 months of receipt of the grant. The Notice states, “Funds are used when they are obligated

by a state, unit of general local government, or any subrecipient thereof, for a specific NSP activity.”

- The term obligation is defined in 24 Code of Federal Regulations (CFR) Part 85.3, “Obligations means the amounts of orders placed, contracts and subgrants awarded, goods and services received, and similar transactions during a given period that will require payment by the grantee during the same or a future period.” If the funds are not used or obligated for a specific NSP activity within 18 months of receipt of the grant, HUD, will recapture the amount of the unused funds;
- HERA’s objectives for the use of NSP funds, which differ significantly from regular CDBG funds;
- The State’s desire to promote quick implementation of projects to respond to foreclosures and other factors which are destabilizing neighborhoods and causing declining home values;
- The need for reasonable geographic and proportionate distribution of NSP funds; and,
- The high level of interest in NSP funding from Montana communities statewide.

Upon approval of Montana’s Action Plan Amendment by HUD, MDOC will issue a RFP and begin accepting applications on a first come, first serve basis. The RFP date is variable based upon HUD’s approval of this Action Plan Amendment, and/or changes issued to the NSP Notice or interpretation of the Notice as clarified on the HUD website for this program: <http://www.hud.gov/nsp>. MDOC urges potential grantees to be on alert for such changes, which will be posted on the MDOC website with other NSP publications and materials. That website is:

http://comdev.mt.gov/CDD_CDBG_NSP.asp

Initial Funding Round

- Applicants may submit proposals at any time after the initial NSP has been issued by MDOC. The RFP will be published on Montana’s NSP website:
http://comdev.mt.gov/CDD_CDBG_NSP.asp .
- All proposals received will be summarized on Montana’s NSP website:
http://comdev.mt.gov/CDD_CDBG_NSP.asp .
- All proposals must be reasonable and appropriate given the limited amount of funds in comparison to the anticipated high demand for them on a statewide basis.

- The State will award NSP funds to eligible applicants in the initial funding round based upon acceptable applications that are consistent with this amendment.
- **HERA states, “not less than 25 percent of the funds appropriated or otherwise made available under this section shall be used for the purchase and redevelopment of abandoned or foreclosed homes or residential properties that will be used to house individuals or families whose incomes do not exceed 50 percent of area median income.” The State will give priority to those proposals that meet the 50 percent (low income) area median income (AMI) requirement.**
- **If the State does not receive proposals totaling at least 25 percent of the NSP funds (approximately \$4,900,000) for this population group as required by statute, MDOC will withhold awarding other grants until additional eligible proposals/activities are identified to meet this requirement. MDOC may choose to solicit additional NSP proposals, unilaterally modify grant request amounts, and/or identify other eligible projects that meet the 50 percent (low income) AMI requirement.**
- The State reserves the right to reject any application that does not meet the requirements of the NSP statute or appears infeasible.

Administrative Funds

MDOC will share with grantees the 10 percent of the NSP funds potentially available for administrative uses as follows: Up to five percent (or \$980,000) will be retained by the State to fulfill the administrative and monitoring requirements of the program, and up to five percent (5%) will be available to grantees receiving NSP grant funds for grant administration. The Notice states, “For all grantees, including states, the 10 percent limitation applies to the grant as a whole.” Therefore, the state will only allow the expenditure of administrative funds for project costs in relative proportion to the amount of funds obligated for or expended on eligible NSP activities.

Upon notification, NSP grantees will receive authorization to incur project start-up costs which do not involve any physical construction or demolition activities, such as hiring professional grant administrators, engineers, architects, or initiating the project environmental review process. These actions will consist of the following:

- utilizing administrative staff working on NSP activities and/or selecting an outside administrative consultant for NSP projects;
- preparation or revision of project management plans;
- publishing legal notices;
- incurring other administrative expenses required for capacity building (e.g., training appropriate for the NSP project);

- advertising for consultant services (architecture, engineering, and grant administration) by means of requests for proposal (RFP) or requests for qualifications (RFQ), as applicable;
- Project architecture, engineering and design costs; and
- Environmental studies or assessments required by HUD regulations (24 CFR, Parts 51, 55, and 58).

No costs other than those listed above may be incurred without written consent from the Montana Department of Commerce. Reimbursement of costs incurred is contingent on the satisfactory completion of the Environmental Review Record for the NSP project, the issuance of a Release of Funds by the Department of Commerce, and executing and meeting the terms of the contract between the Department and the local entity. In the event the grantee is unable to complete any required start-up activity, any costs incurred will be the responsibility of the grant applicant.

Grantees will also be responsible for any costs incurred in the event the grantee or sub-grantee fails to obligate NSP funds executing a contract or similar agreement to carry out a NSP activity.

Eligible Applicants

The NSP funding is available to any unit of local government or Tribes in the State meeting the definition of an area of greatest need or those local governments that qualify as direct federal entitlement communities or urban counties under the CDBG Program. However, all entities must be eligible to receive federal funds as defined in Title III, Section 2304 of HERA and follow all applicable CDBG regulations.

Projects that are initiated by the State, nonprofits, housing authorities or redevelopment authorities require environmental clearance by HUD with no assurance as to the amount of time that would be required for a HUD decision. The State believes that it will be able to assure a faster environmental clearance timeframe. For this reason, the State is discouraging direct applications or proposals from nonprofits, housing authorities or redevelopment authorities due to the unknown time required for HUD's environmental clearance, coupled with the limited 18 month timeframe for obligation of NSP funds. Instead, the State encourages these organizations to partner with local governments and Tribes to participate in local NSP projects and share their expertise in planning and administering local NSP housing projects.

Eligible Activities

MDOC will make NSP funds available for the following statutorily eligible activities. NSP funds are eligible to:

1. Establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties, including such mechanisms as soft-

seconds, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers.

2. Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties.
3. Establish land banks for homes that have been foreclosed upon.
4. Demolish blighted structures.
5. Redevelop demolished or vacant properties.

HUD has established restrictions on these activities via its Notice on the NSP allocation. In addition, eligible activities 1, 2, and 3 are only eligible if the use of funds will address an abandoned or foreclosed property. HUD has also waived the one-for-one replacement, but requires documentation on the number of units that will be produced. (One-for-one replacement is required under the regular CDBG program as found in 24 CFR 42.375: "All occupied and vacant occupiable lower-income dwelling units that are demolished or converted to a use other than as lower-income dwelling units in connection with an assisted activity must be replaced with comparable lower-income dwelling units.") MDOC will seek to allow the maximum authorized flexibility in the use of NSP funds while adhering to HUD-mandated restrictions. MDOC will also advise and provide technical assistance to all NSP applicants regarding these requirements.

The eligible activities outlined in this Action Plan for NSP funds are subject to change, based upon HUD's approval of this Action Plan, and/or changes issued to the NSP Notice or interpretation of the Notice as clarified on the HUD website for this program: <http://www.hud.gov/nsp>. MDOC urges potential grantees to be on alert for such changes, which will be posted on the MDOC website with other NSP publications and materials. That website is: http://comdev.mt.gov/CDD_CDBG_NSP.asp.

Grant Amounts

MDOC anticipates that the amount of funds that can be applied for and approved will vary with population and needs of each community. The State will not impose a 'ceiling' or maximum for the amount of a grant request. However, as eligible recipients prepare their NSP proposals, applicants should keep in mind the limited amount of funding available relative to the eligible statewide needs. MDOC will strive to distribute NSP funds fairly and reasonably given the strong interest in NSP statewide and the limited timeframe to obligate the funds. Applicants are also encouraged to prioritize NSP eligible needs and submit proposals to address their highest priority community needs. As guidance for potential applicants, MDOC recommends that applicants apply for funding amounts commensurate with:

- a) Cost of the project;

- b) Amounts of NSP funds available for the specific activity;
- c) Consideration of other proposals submitted statewide;
- d) Availability of other funding sources;
- e) The geographic and proportionate distribution of NSP funds;
- f) Need of the jurisdiction (HUD Risk Score, subprime lending activities, and blight); and
- g) The applicant's capacity to carry out the proposed activities in a timely manner (conformance to the HUD requirements to the 18 month obligation of funds and conformance to the 4 year expenditure of NSP funds).

Award of Funds

As required by HERA, NSP funds must be used or obligated within 18 months of receipt of the State's grant. The Notice states, "Funds are used when they are obligated by a state, unit of general local government, or any subrecipient thereof, for a specific NSP activity." If the funds are not used or obligated for a specific NSP activity within 18 months of receipt of the grant, HUD will recapture the amount of the unobligated funds. In addition, the Notice states, "All NSP grantees must expend on eligible NSP activities an amount equal to or greater than the initial allocation of NSP funds within 4 years of receipt of those funds or HUD will recapture and reallocate the amount of funds not expended." Therefore, the State will implement an obligation-based grant approach for the NSP projects, to ensure that as much as possible of the \$19.6 million of NSP funds is used or obligated during the 18 month timeframe and expended within 4 years of receipt of Montana's NSP funds.

NSP grants to eligible recipients will not receive a grant award for a firm, fixed amount of funds as is the case with the regular State CDBG Program. The intent of an obligation-based grant award system and an incremental grant commitments procedure is to establish a system that will encourage the obligation and expenditure of these funds by rewarding communities that are successful in quickly committing and spending these NSP funds for eligible activities. Projects can be approved in concept; however, the commitment of funds for project components will be finalized as the eligible recipients are able to firmly obligate funds for project activities through a contractual process. Once the NSP funds are obligated by the grantee, MDOC will sign a contract for the obligated amount. Montana NSP website will provide assistance to prospective applicants regarding the amount of available NSP fund for the State. The MDOC NSP website is located at the following link: http://comdev.mt.gov/CDD_CDBG_NSP.asp.

Grantees may submit proposals for amendments to their NSP contract for multiple activities or properties, or they may bring in individual properties or activities as they are obligated. Additional activities will be incorporated in the original contract with the grantee through a MDOC-approved amendment(s).

Selection Criteria and Priorities

MDOC has established the priorities described below that will be used in the NSP proposal review process. While each criterion is important to demonstrate a successful NSP proposal, the priorities were designed to assure that the State complies with the HUD Notice, meets applicable CDBG regulations, and spends the funds in an effective and timely manner:

- **Neighborhood Stabilization:** MDOC will give priority to those proposals that can demonstrate a strong relationship to neighborhood stabilization activities, which is consistent with existing local housing priorities.
- **Recognizable Impact:** To address the intent of HERA and the Notice which is to make certain that this funding will have a meaningful impact at the State and local level, MDOC will give priority to those proposals that can demonstrate the eligible NSP activities would result in a long-term, recognizable and visible impact and would promote overall neighborhood stabilization and community renewal. IN addition, MDOC will also consider whether the applicant has chosen a geographic area or clientele of high need, in terms of concentrations of lower income families and substandard housing suitable for NSP funds to be obligated, which offers a reasonable potential for generating substantial recognizable impact.
- **Capacity of Applicant and Program Administrators:** MDOC will consider the following considerations for all proposals:
 - To be awarded a NSP grant, a local government must have the management capacity to obligate the funds within the 18 month timeframe and satisfactorily complete the project it is proposing by the end of 4 years, from the date of the approval of the State's amendment by HUD.
 - An applicant is assumed to have the capacity to undertake the proposed project unless available information raises a question concerning an applicant's capacity. If any question arises when the NSP proposal is submitted, MDOC may request additional information. If an applicant does not believe that it currently has the capacity to manage a NSP grant, it may propose to hire administrative staff or arrange for project administration by another local government through an interlocal agreement or by contracting for administrative services with a consultant. (These are allowable expenses that can be paid for using NSP funds.)
- **Assistance to Low-Income Households at or Below 50 percent AMI:** In order to meet the requirement that at least 25 percent of all NSP funds assist households at or below 50 percent of the area median income (AMI), the State will give priority to proposals that will serve persons in this income category. NOTE: MDOC will ensure the assistance to low-income households proposed in NSP proposal through

contract conditions with required performance levels in order to receive NSP grant payments.

- **HERA states, “not less than 25 percent of the funds appropriated or otherwise made available under this section shall be used for the purchase and redevelopment of abandoned or foreclosed homes or residential properties that will be used to house individuals or families whose incomes do not exceed 50 percent of area median income.” The State will give priority to those proposals that meet the 50 percent area median income (AMI) requirement.**
- **If MDOC does not receive proposals totaling at least 25 percent of the NSP funds (approximately \$4,900,000) for this population group as required by statute, MDOC will withhold awarding other grants until additional eligible proposals/activities are identified to meet this requirement. MDOC may choose to solicit additional NSP proposals, unilaterally modify grant request amounts, and/or identify other eligible projects that meet the 50 percent AMI requirement.**
- **Priority Need Areas:** While all applicants must serve an area of greatest need to be eligible for NSP funding, MDOC will give priority to proposals that address the Priority Need Areas as defined in this Action Plan. To qualify for this criterion, an applicant is not required to use all NSP funds in the geographic location(s) defined as Priority Need Areas. The State encourages the use of local data to further identify priority need areas.

C. Definitions and Descriptions

The following section provides the State’s definitions and descriptions of significant terms and program requirements.

Blighted Structure

The State is required by HUD to provide a definition of “Blighted Structure”. For the purpose of Montana’s NSP CDBG Program, the definition of “blighted structure” can include anyone of the following categories:

- Montana Department of Revenue Property Physical Condition Database’s definition of physical condition of residential housing stock.
 - Unsound – indicates that the dwelling is definitely structurally unsound and practically unfit for use.
 - Very Poor – indicates that the dwelling is definitely structurally unsound and practically unfit for use. Repair and overhaul is needed on painted surfaces,

roofing, plumbing and heating. There is excessive deferred maintenance and abuse. Property is approaching abandonment or major reconstruction.

- Structures included within a designated Urban Renewal District or Tax Increment Financing District as established by Montana Statutes 7-15-4202 (blight in Urban Renewal Districts) and 7-15-4282 (Tax Increment Financing Districts).
- Units identified as “substantially substandard” or “severely substandard” according to the Point Detraction Guideline utilized in the Montana CDBG Program, Application Guidelines for Housing and Neighborhood Renewal Projects, Appendix L, as follows:
 - Substantially Substandard – Unit appears to need substantial repair. (Rehabilitation may not be cost-effective. Alternative forms of assistance may be more appropriate.)
 - Severely Substandard – Unit appears dilapidated. Demolition and housing replacement should be considered.
 - The definition of “substandard buildings” contained in the latest authorized edition of the International Property Maintenance Code published by the International Code Council. This information is available from the Montana Department of Labor and Industry (MDLI), Building Codes Bureau.
 - Any structure determined to be seriously deteriorated or dilapidated according to a locally adopted Code for the Abatement of Dangerous Buildings or similar ordinance to address the debilitating effects of blight within communities.

Affordable Rents

The State is required by HUD to provide a definition of “Affordable Rents”. NSP-assisted units will carry rent and occupancy restriction requirements. The rents will be set in order that individuals pay no more than 35 percent of their gross income for rent, including utilities, or the applicable fair market rents for the area, as established annually by HUD, less any utility costs paid by the tenants, whichever is lower. Gross income will be defined according to the federal standards for the HUD Section 8 rent assistance program. **NOTE:** If the NSP-assisted unit is also assisted by funding from the HOME Program and/or the Low Income Housing Tax Credit (LIHTC) Program, the rent requirements for those programs will supersede the requirements noted here.

Continued Affordability

The State is required by HUD to provide a description of how the State will ensure “continued affordability” for NSP assisted housing. HUD requires that states ensure, to the maximum extent practicable and for the longest feasible term, that the sale, rental or redevelopment of abandoned and foreclosed upon homes and residential properties

remain affordable to individuals or families whose incomes do not exceed 120 percent of area median income (AMI). All homebuyer and rental units assisted must include provisions for long-term affordability restrictions

Homebuyer

All homebuyer units assisted must include provisions for long-term affordability restrictions meeting at least the following requirements:

Subsidy Amount <i>(amount of NSP assistance provided to a homebuyer)</i>	Minimum Affordability Period	Minimum Restriction
Under \$15,000	5 years	Subsidy recapture, 20% forgiveness each year
\$15,000 – \$40,000	10 years	Subsidy recapture, 10% forgiveness each year
Over \$40,000	15 years	Subsidy recapture, 6.6% forgiveness each year
New Construction or Acquisition of Newly Constructed Single Family Housing (any \$ amount)	20 years	Subsidy recapture, 5% forgiveness each year

While these are minimum requirements, the applicant may choose to implement more stringent affordability requirements than the minimum listed here to ensure that the properties remain affordable for as long as possible.

Proceeds from resale where subsidy recapture provision is used can be reinvested in eligible NSP activities within the first five program years. After that timeframe, proceeds must be returned to MDOC, which will subsequently return such amounts to the Federal Treasury in accordance with the HUD Notice for NSP.

Rental

Current HUD regulations state that all rental income above that needed for operations, maintenance and reserves is considered program income and must be returned to HUD. This provision does not provide for a sliding scale or shared return of those funds. Therefore, MDOC encourages applicants to consider the long term feasibility of assisting rental housing using these funds.

Subsidy Amount <i>(amount of NSP assistance provided)</i>	Minimum Affordability Period	Minimum Restriction
Under \$15,000 per rental unit	5 years	Subsidy recapture, 20% forgiveness each year

Subsidy Amount <i>(amount of NSP assistance provided)</i>	Minimum Affordability Period	Minimum Restriction
\$15,000 – \$40,000 per rental unit	10 years	Subsidy recapture, 10% forgiveness each year
Over \$40,000 per rental unit	15 years	Subsidy recapture, 6.6% forgiveness each year
New Construction or Acquisition of Newly Constructed Rental Housing (any \$ amount)	20 years	Subsidy recapture, 5% forgiveness each year

Rent, occupancy, and affordability requirements for homebuyer and rental units will be enforced with covenants, mortgages, or deed restrictions running with the property.

The definition of “Continued Affordability” in this Action Plan for NSP funds is subject to change based upon HUD’s approval of this Action Plan, and/or changes issued to the NSP Notice or interpretation of the Notice as clarified on the HUD website for this program: <http://www.hud.gov/nsp>. MDOC urges potential grantees to be on alert for such changes, which will be posted on the MDOC website with other NSP publications and materials: http://comdev.mt.gov/CDD_CDBG_NSP.asp.

Housing Rehabilitation Standards

The State is required by HUD to describe the “housing rehabilitation standards” that will apply to NSP assisted activities. "Rehabilitation" includes using NSP funds to make improvements to substandard residential structures. NSP housing rehabilitation or related redevelopment projects would focus on bringing housing units up to basic code standards by addressing structural deficiencies, improving electrical systems, plumbing and roofing, and incorporating energy conservation measures.

Such improvements must meet or exceed requirements contained in current editions of the HUD Section 8 Housing Quality Standards (or FHA equivalent standards) and the following current codes adopted by the Building Codes Bureau of the Montana Department of Labor and Industry (MDLI):

- International Building Code, 2003 Edition
- International Residential Code, 2003 Edition (one and two-family dwellings and townhouses up to three stories in height)
- International Existing Building Code, 2003 Edition
- Uniform Plumbing Code, 2003 Edition
- International Mechanical Code, 2003 Edition
- International Fuel Gas Code, 2003 Edition

- National Electrical Code, 2002 Edition
- International Energy Conservation Code, 2003 Edition
- American Society of Engineers, Boiler and Pressure Vessel Code, 2001 Edition

Note on Energy Conservation: Communities proposing rehabilitation or new construction of residential housing units should pay particular attention to the International Energy Conservation Code, 2003 Edition. This code was adopted in 2004 by the Building Codes Bureau of the Montana Department of Labor and Industry. The code establishes energy conservation standards for improvements to existing residential structure or construction of new residential housing units, as well as standards for other types of construction.

Permits must be obtained from the MDLI, Building Codes Bureau for all electrical and/or plumbing work (where a licensed plumber is performing the work) undertaken with NSP funds unless the grant recipient has been certified by the Bureau to enforce the codes cited above. In such cases, some permits will be obtained locally. The Building Codes Bureau maintains a listing of Montana counties and incorporated municipalities which are certified to enforce building, electrical, mechanical, and plumbing codes. In those cases where the Building Codes Bureau has not certified the grant recipient, permits must be obtained from the Bureau when rehabilitation involves structures with five or more units, or any commercial or public buildings.

Grantees will be responsible for assuring that proper authorities inspect such work. Options to provide code inspection may include interlocal agreements with governments that have existing building departments, arrangements with MDLI's Building Codes Bureau, or by contracting with qualified, private sector persons. Where possible, to preserve independence, local governments are encouraged to utilize the services of a separate individual to perform inspection services. All electrical and/or plumbing work not done by the owner of a single-family structure must be done only by electricians and/or plumbers licensed by the State of Montana.

For further information, please contact:

Building Codes Bureau/Montana Dept of Labor & Industry
 301 South Park, Room 430 -- P.O. Box 200517
 Helena, MT 59620-0517
 Phone: (406) 841-2300
 Website: http://mt.gov/dli/bsd/bc/bs_index.asp

Abandoned Property

HUD has defined "abandoned property" within the NSP Notice. As defined in the Notice, a home is "abandoned" when mortgage or tax foreclosure proceedings have been initiated for that property, no mortgage or tax payments have been made by the

property owner for at least 90 days, AND the property has been vacant for at least 90 days.

Foreclosed Property

HUD has defined “foreclosed property” within the NSP Notice. As defined in the Notice, a property “has been foreclosed upon” at the point that, under state or local law, the mortgage or tax foreclosure is complete. HUD generally will not consider a foreclosure to be complete until after the title for the property has been transferred from the former homeowner under some type of foreclosure proceeding or transfer in lieu of foreclosure, in accordance with state or local law.

Area of Greatest Need

The State is required by HUD, as mandated by HERA, to define the “areas of greatest need”. The State’s definition of “area of greatest need”, as well Qualified Need Areas and Priority Need Areas, are found in Section A., Areas of Greatest Need, of this Action Plan.

Vacant Property

The State has chosen to define “vacant property”, to assist eligible NSP recipients with NSP eligible use ‘E’. The State has defined “vacant property” as any property that is an unoccupied structure or unoccupied parcel of land upon which no structure(s) are present.

D. Low-Income Targeting

HERA requires, “not less than 25 percent of the funds appropriated or otherwise made available under this section shall be used for the purchase and redevelopment of abandoned or foreclosed homes or residential properties that will be used to house individuals or families whose incomes do not exceed 50 percent of area median income.” **Therefore, 25% of the total NSP allocation of \$19.6 million that the State of Montana will receive must be made available for the purchase and redevelopment of abandoned or foreclosed homes or residential properties for individuals or families at or below 50 percent of AMI. In compliance with the HERA requirement, at least \$4,900,000 of Montana NSP allocation will be made available for this specific use.**

All applicants will be encouraged to respond to the housing needs of households that do not exceed 50 percent AMI through the criteria for RFPs. Priority will be given to any proposal that serves this low-income population category.

If the State does not receive proposals totaling at least 25 percent of the NSP funds (at least \$4,900,000) for this population group as required by statute, MDOC

will withhold awarding other grants until additional eligible proposals/activities are identified to meet this requirement. MDOC may choose to solicit additional NSP proposals, unilaterally modify grant request amounts, and/or identify other eligible projects that meet the 50 percent AMI requirement.

E. Acquisitions and Relocation

While HUD waived the “one-for-one” requirement to replace all housing units for low and moderate-income households that are lost due to demolition or modification of housing, the HUD Notice on NSP requires information about how such losses will be mitigated. (One-for-one replacement is required under the regular CDBG program as found in 24 CFR 42.375 “All occupied and vacant occupiable lower-income dwelling units that are demolished or converted to a use other than as lower-income dwelling units in connection with an assisted activity must be replaced with comparable lower-income dwelling units.”) This section also notes the proposed efforts to demolish or convert housing units using NSP funding sources:

- Montana proposes to demolish or convert approximately 350 low or moderate income dwelling units, not to exceed 80% of AMI.
- Montana expects to make available approximately 100 affordable housing units for low, moderate, and middle-income households, not to exceed 120% AMI.
- Within that total number of housing units, approximately 25 units will be available for low-income households, not to exceed 50% AMI.

F. Public Comment

This section will provide a summary of public comments received regarding the proposed NSP Substantial Amendment. This section will be added once the document is sent to HUD.

Prior to the publication of this amendment the State of Montana encouraged initial comments from the public to assist in drafting this amendment. The following is a list of activities the State was involved in prior to November 13, 2008, the date of publication of the amendment:

- Presentation at the League of Cities and Towns in Missoula on October 9, 2008
- Presentation at the Montana Association of Counties in Hamilton on September 24, 2008
- Presentations at four statewide housing workshops held at the following locations:
 - Glendive – October 15, 2008
 - Billings – October 16, 2008

- Missoula – October 29, 2008
- Great Falls – October 30, 2008
- Conference call with five of the Tribes in Montana, Governor's Office of Economic Development and local HUD Field Representatives on October 5, 2008
- Numerous email correspondence, testimonial letters and phone calls with elected officials and non-profit organizations
- In addition, MDOC has scheduled a state-wide opportunity for public comment through a combined Go-to-meeting (conference call) and METNET (teleconferencing). MDOC staff will present this amend and provide an opportunity for comments.

Persons who would like to comment on this amendment may send those comments to:

Leslie Edgcomb
Consolidated Plan Coordinator
Montana Department of Commerce
Housing Division
301 S. Park Ave, 2nd Floor
P.O. Box 200545
Helena, MT 59620
ledgcomb@mt.gov

Jennifer Olson
CDBG Program Specialist
Montana Department of Commerce
Community Development Division
301 S. Park Ave, 2nd Floor
P.O. Box
Helena, MT 59620
jeolson@mt.gov

Comments must be received by 5 p.m. on November 27, 2008.

G. NSP Information by Activity

ACTIVITY A: Establish Financing Mechanisms

- Description: Establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties, including such mechanisms as soft-second, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers.

(1) Activity Name: Establishing financing mechanism.

(2) Activity Type:

NSP-Eligible Uses	Correlated Eligible Activities from the CDBG Entitlement Regulations
(A) Establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties, including such mechanisms as soft-second, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers	<ul style="list-style-type: none">▪ As part of an activity, delivery cost for an eligible activity as defined in 24 CFR 570.206.▪ 24 CFR 570.201(n) Direct homeownership assistance

(3) National Objective:

- a. Provides or improves permanent residential structures that will be occupied by households at or below 120% of area median income; or
- b. Serves an area in which at least 51 percent of the residents have incomes at or below 120 percent of the median income.

(4) Activity Description: While the exact financing mechanisms will depend on the specific projects funded through the RFP process described in Section B, each financing mechanism will be established for one or both of the following purposes:

1. To create a pool of funds through which the specific project will acquire foreclosed or abandoned homes; and/or
2. To subsidize the purchase of homes by assisting homeowners with down payment assistance or providing a soft second mortgage.

The creation of acquisition pools will benefit low income persons by creating a stock of homes for purchase or rental and by putting foreclosed homes back into productive use. Down payment assistance will assist low income persons by assisting them to purchase homes that they would be otherwise unable to purchase. The MDOC anticipates that a portion of these funds will be used to

create permanent housing opportunities for households with incomes below 50% of area median income.

- (5) Location Description: Projects will be located in areas of greatest need within Montana, with a priority emphasis on projects in the Priority Need Areas.
- (6) Performance Measures:
- ☒ Completion: Acquisition within 4 months of agreement; occupancy within 12 months of agreement.
 - ☒ Occupancy: (1) percent of units occupied by below 120% area median income; (2) percent of units by below 80% area median income; and (3) percent of units occupied by below 50% area median income.
 - ☒ Affordability period: Units years of affordability produced.
 - ☒ Substandard units improved to standard.
- (7) Total Budget: Based on the HUD data and the communities' responses, approximately 10% of NSP Project Funds will be allocated to these activities, but the final amount will be based on projects selected from responses to the RFP.

If the Montana NSP funds designated for this activity are not awarded toward a specific location or project within six months of the approval of this Action Plan Amendment, the State reserves the right to reallocate the remaining balance of unobligated funds to another designated activity or activities in this action plan.

- (8) Responsible Organization: MDOC CDD will review RFPs from local governments and tribes and make awards based on criteria established for the program. Specific awardees will be named upon evaluation of the responses to the RFP.
- (9) Projected Start Date: March 2009
- (10) Projected End Date: February 2014
- (11) Specific Activity Requirements:
- **Tenure**: This activity will include both rental and homeownership units.
 - **Duration of Assistance**: Will vary.
 - **Extended Affordability**: Applicants will be allowed to propose the continued affordability model for each project including the period of sustained affordability for the project and the legal means by which the affordability will be ensured. The standard will be the minimum term allowable as stated in this amendment. Applicants may either impose a deed restriction to ensure continued affordability or require subsidy recapture and/or mortgage repayment for failure to complete the minimum term of affordability.
 - **Discount Rate**: In all cases, financing the acquisition of foreclosed-upon properties will be in compliance with section 2301(d)(1) of HERA that requires

that each foreclosed-upon home or residential property be purchased at a discount of at least 5% from the current market-appraised value. Properties purchased in the aggregate must be discounted by at least 15%.

- **Range of Interest Rates:** These will vary depending on the specific projects selected, will likely be as low as 0% and up to market rate.

ACTIVITY B: Purchase and Rehabilitate Abandoned or Foreclosed Upon Homes and Residential Properties

- Description: Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon.
- (1) Activity Name: Purchase and Rehabilitate homes and residential properties that have been abandoned or foreclosed upon.
- (2) Activity Type:

NSP-Eligible Uses	Correlated Eligible Activities from the CDBG Entitlement Regulations
(B) Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties	<ul style="list-style-type: none"> ▪ 24 CFR 570.201 <ul style="list-style-type: none"> (a) Acquisition (b) Disposition, (i) Relocation, and (n) Direct homeownership assistance (as modified below); ▪ 570.202 eligible rehabilitation and preservation activities for homes and other residential properties (HUD notes that rehabilitation may include counseling for those seeking to take part in the activity). ▪ As part of an activity, delivery cost for an eligible activity as defined in 24 CFR 570.206.

- (3) National Objective:
 - a. Provides or improves permanent residential structures that will be occupied by households at or below 120% of AMI; or
 - b. Serves an area in which at least 51 percent of the residents have incomes at or below 120 percent of the median income.

- (4) Activity Description: This activity will benefit low income persons by creating a stock of homes for purchase or rental and by putting abandoned or foreclosed homes back into productive use. MDOC anticipates that a portion of these funds will be used to create permanent housing opportunities for households with incomes below 50% of area median income.

Rehabilitation projects will meet housing rehabilitation standards and affordability standards outlined in this Amendment.

- (5) Location Description: Projects will be located in areas of greatest need within the State of Montana, with a priority emphasis on projects in Census Block Groups that contain at least one census tract block group with a Risk Score of 5 or greater. Specific addresses will be established by the projects selected in the RFP process.

- (6) Performance Measures:

- ☒ Completion: Acquisition within 3 months of agreement.
- ☒ Affordability period: Units years of affordability produced
- ☒ Substandard units improved to standard

- (7) Total Budget: Based on comments received prior to publishing the amendment it is estimated that 15% of NSP Project Funds will be allocated to these activities, but the final amount will be based on projects selected from responses to the RFP.

If the Montana NSP funds designated for this activity are not awarded toward a specific location or project within six months of the approval of this action plan, the State reserves the right to reallocate the remaining balance of unobligated funds to another designated activity or activities in this Action Plan Amendment.

- (8) Responsible Organization: The MDOC CDD will review applications from local governments and tribes and make awards based on criteria established for the program. Specific awardees will be named upon evaluation of the responses to the RFP.

- (9) Projected Start Date: March 2009

- (10) Projected End Date: February 2014

- (11) Specific Activity Requirements:

- **Tenure**: This activity will include both rental and homeownership units.
- **Duration of Assistance**: Will vary.
- **Extended Affordability**: Applicants will be allowed to propose the continued affordability model for each project including the period of sustained affordability for the project and the legal means by which the affordability will

be ensured. The standard will be the minimum term allowable as stated in this amendment. Applicants may either impose a deed restriction to ensure continued affordability or require subsidy recapture and/or mortgage repayment for failure to complete the minimum term of affordability.

- **Discount Rate:** In all cases, financing the acquisition of foreclosed-upon properties will be in compliance with section 2301(d)(1) of HERA that requires that each foreclosed-upon home or residential property be purchased at a discount of at least 5 percent from the current market-appraised value. Properties purchased in the aggregate must be discounted by at least 15 percent.
- **Range of Interest Rates:** N/A.

ACTIVITY C: Establish Land Banks

➤ Description: Establish land banks for homes that have been foreclosed upon.

(1) Activity Name: Establish land banks for homes that have been foreclosed upon.

(2) Activity Type:

NSP-Eligible Uses	Correlated Eligible Activities from the CDBG Entitlement Regulations
(C) Establish land banks for homes that have been foreclosed upon	<ul style="list-style-type: none"> ▪ 24 CFR 570.201 <ul style="list-style-type: none"> (a) Acquisition and (b) Disposition. ▪ As part of an activity delivery cost for an eligible activity as defined in 24 CFR 570.206.

(3) National Objective: To serve an area in which at least 51 percent of the residents have incomes at or below 120 percent of the median income.

(4) Activity Description: Land banks will be a small part of the State's NSP program. Land banks will be restricted to areas that demonstrate conclusively to the State that there is a supply of foreclosed homes in substantial excess to the population of that area and that there is not a viable development alternative in those areas. Land banks will create legal entities to purchase and hold foreclosed homes and ensure that those homes are safe and not blight in the neighborhoods. Land banks will assist in making these homes community assets while waiting for a re-sale market for those properties to develop. Land banks funded with NSP must have plans for the sale or disposition of all homes acquired within **ten years** of acquiring the homes.

The creation of land banks will benefit low income persons primarily by ensuring that the foreclosed homes in low income neighborhoods will be maintained in a safe productive way for such neighborhoods. Land banks will not create permanent housing opportunities for households with incomes below 50% of area median income.

If the NSP funds designated for this activity are of awarded toward a specific location or project within six months of the approval of this Action Plan Amendment, the State reserves the right to move the remaining funds to another designated activity or activities in this Action Plan Amendment.

- (5) Location Description: Projects will be located in areas of greatest need within the State of Montana, with a priority emphasis on projects in areas that have at least one census tract block group with a Risk Score of 5 or greater. Specific addresses will be established by the projects selected in the RFP process.
- (6) Performance Measures:
 - ☒ Completion: Acquisition within 3 months of agreement.
- (7) Total Budget: Based on comments received prior to publishing the amendment it is estimated that less than 5% of NSP Project Funds will be allocated to these activities, but the final amount will be based on projects selected from responses to the RFP.

If the Montana NSP funds designated for this activity are not awarded toward a specific location or project within six months of the approval of this action plan, the State reserves the right to reallocate the remaining balance of unobligated funds to another designated activity or activities in this action plan.

- (8) Responsible Organization: The MDOC CDD will review applications from local governments and tribes and make awards based on criteria established for the program. Specific awardees will be named upon evaluation of the responses to the RFP.
- (9) Projected Start Date: March 2009
- (10) Projected End Date: February 2014
- (11) Specific Activity Requirements:
 - **Tenure**: This activity will include both rental and homeownership units.
 - **Duration of Assistance**: Will vary.
 - **Extended Affordability**: Applicants will be allowed to propose the continued affordability model for each project including the period of sustained affordability for the project and the legal means by which the affordability will be ensured. The standard will be the minimum term allowable as stated in this

amendment. Applicants may either impose a deed restriction to ensure continued affordability or require subsidy recapture and/or mortgage repayment for failure to complete the minimum term of affordability.

- **Discount Rate:** In all cases, financing the acquisition of foreclosed-upon properties will be in compliance with section 2301(d)(1) of HERA that requires that each foreclosed-upon home or residential property be purchased at a discount of at least 5 percent from the current market-appraised value. Properties purchased in the aggregate must be discounted by at least 15 percent.
- **Range of Interest Rates:** n/a

ACTIVITY D: Demolish Blighted Structures

➤ Description: Demolish blighted structures

(1) Activity Name: Demolish blighted structures.

(2) Activity Type:

NSP-Eligible Uses	Correlated Eligible Activities from the CDBG Entitlement Regulations
(D) Demolish blighted structures	<ul style="list-style-type: none"> ▪ 24 CFR 570.201 (d) Clearance for blighted structures only. ▪ As part of an activity, delivery cost for an eligible activity as defined in 24 CFR 570.206.

(3) National Objective: To serve an area in which at least 51 percent of the residents have incomes at or below 120 percent of the median income.

(4) Activity Description: Demolition can be considered as part of a comprehensive plan for neighborhood revitalization or redevelopment of a site for affordable housing or some other public purpose. Demolition of blighted structures will be a relatively large part of the State's NSP program. Demolition will be restricted to areas that demonstrate conclusively to the State that the demolition of the structures in question will facilitate neighborhood redevelopment and that there is not a viable development alternative for those structures.

The demolition of blighted structures under the NSP program will benefit low income persons primarily by ensuring that blighted structures in low income neighborhoods will not continue to be a nuisance and hazard in the community.

Demolition will not create permanent housing opportunities for households with incomes below 50% of area median income.

- (5) Location Description: Projects will be located in areas of greatest need within the State of Montana, with a priority emphasis on projects in areas that contain at least a risk score of 5.5% or greater. Specific addresses will be established by the projects selected in the RFP process.
 - (6) Performance Measures:
 - ☒ Completion: Acquisition within 3 months of agreement.
 - (7) Total Budget: Based on comments received prior to publishing the amendment it is estimated that between 20% of NSP Project Funds will be allocated to these activities, but the final amount will be based on projects selected from responses to the RFP.
- If the Montana NSP funds designated for this activity are not awarded toward a specific location or project within six months of the approval of this action plan, the State reserves the right to reallocate the remaining balance of unobligated funds to another designated activity or activities in this Action Plan Amendment.
- (8) Responsible Organization: The MDOC CDD will review applications from local governments and tribes and make awards based on criteria established for the program. Specific awardees will be named upon evaluation of the responses to the RFP.
 - (9) Projected Start Date: March 2009
 - (10) Projected End Date: February 2014
 - (11) Specific Activity Requirements: All specific activity requirements are not applicable to demolition.

ACTIVITY E: Redevelop Demolished or Vacant Properties

- Description: Redevelop demolished or vacant properties.
- (1) Activity Name: Redevelop demolished or vacant properties.

(2) Activity Type:

NSP-Eligible Uses	Correlated Eligible Activities from the CDBG Entitlement Regulations
(E) Redevelop demolished or vacant properties	<ul style="list-style-type: none">▪ 24 CFR 570.201<ul style="list-style-type: none">(a) Acquisition,(b) Disposition,(c) Public facilities and improvements,(e) Public services for housing counseling, but only to the extent that counseling beneficiaries are limited to prospective purchasers or tenants of the redeveloped properties,(i) Relocation, and(n) Direct homeownership assistance (as modified below).▪ 204 Community based development organizations.▪ As part of an activity delivery cost for an eligible activity as defined in 24 CFR 570.206.

(3) National Objective(s):

- (a) provides or improves permanent residential structures that will be occupied by households at or below 120% of area median income; or
- (b) serves an area in which at least 51 percent of the residents have incomes at or below 120 percent of the median income.

(4) Activity Description: The redevelopment of demolished or vacant properties is a relatively broad use that will incorporate a number of different projects, to be chosen based on the State's RFP process. The State will prioritize redevelopment projects that create new housing units (both rental and homeownership) for low-moderate-middle income households, as defined by the Notice. Other redevelopment projects eligible under the Notice, such as mixed use residential and commercial development, will be considered.

The redevelopment of demolished or vacant properties will benefit low income persons in a number of ways including returning demolished or vacant properties to productive use and by which create new housing units (both rental and homeownership) for low-moderate-middle income households, as defined by the Notice. The Redevelopment of demolished or vacant properties will create permanent housing opportunities for households with incomes below 50% of area median income.

- (5) Location Description: Projects will be located in areas of greatest need within the State of Montana, with a priority emphasis on projects in areas with a risk score of 5 or greater, or a blight score of 5.5% or higher. Specific addresses will be established by the projects selected in the RFP process.
- (6) Performance Measures:
- ☒ Completion: Acquisition within 3 months of agreement; occupancy within 12 months of agreement
 - ☒ Occupancy: Number of units occupied by below 120% area median income, number of units by below 80% area median income; number of units occupied by below 50% area median income
 - ☒ Affordability period – units years of affordability produced
 - ☒ Substandard units improved to standard.
- (7) Total Budget: Based on comments received prior to publishing the amendment it is estimated that, approximately 45% of NSP Project Funds may be allocated to these activities, but the final amount will be based on projects selected from responses to the RFP.
- If the Montana NSP funds designated for this activity are not awarded toward a specific location or project within six months of the approval of this action plan, the State reserves the right to reallocate the remaining balance of unobligated funds to another designated activity or activities in this Action Plan Amendment.
- (8) Responsible Organization: The MDOC CDD will review applications from local governments and tribes and make awards based on criteria established for the program. Specific awardees will be named upon evaluation of the responses to the RFP.
- (9) Projected Start Date: March 2009
- (10) Projected End Date: February 2014
- (11) Specific Activity Requirements:
- **Tenure**: This activity will include both rental and homeownership units.
 - **Duration of Assistance**: Will vary.
 - **Extended Affordability**: Applicants will be allowed to propose the continued affordability model for each project including the period of sustained affordability for the project and the legal means by which the affordability will be ensured. The standard will be the minimum term allowable as stated in this amendment. Applicants may either impose a deed restriction to ensure continued affordability or require subsidy recapture and/or mortgage repayment for failure to complete the minimum term of affordability.

- **Discount Rate:** In all cases, financing the acquisition of foreclosed-upon properties will be in compliance with section 2301(d)(1) of HERA that requires that each foreclosed-upon home or residential property be purchased at a discount of at least 5 percent from the current market-appraised value. Properties purchased in the aggregate must be discounted by at least 15 percent.
- **Range of Interest Rates:** n/a

H. TOTAL BUDGET

Based on comments received prior to publishing the amendment, the State of Montana has developed an estimated budget across each NSP activity. These are approximations and may change based on responses received in the RFP process.

Activity / Category	Subtotals	Amounts	Percent of Total
Financing Mechanisms			
Project Cost	\$ 1,857,100		
Local Admin	\$ 102,900		
		\$ 1,960,000	10.00%
Acquisition/Rehabilitation			
Project Cost	\$ 2,778,300		
Local Admin	\$ 161,700		
		\$ 2,940,000	15.00%
Land Banks			
Project Cost	\$ 928,550		
Local Admin	\$ 51,450		
		\$ 980,000	5.00%
Demolition			
Project Cost	\$ 3,714,200		
Local Admin	\$ 205,800		
		\$ 3,920,000	20.00%
Redevelop/ New Construction			
Project Cost	\$ 8,356,950		
Local Admin	\$ 463,050		
		\$ 8,820,000	45.00%
State Admin Activities			
State Admin	\$ 980,000		5.00%
		\$ 980,000	
TOTAL		\$19,600,000	100.00%

I. PERFORMANCE MEASURES

Below is a summary of the State's expected budget for the use of NSP funds. These numbers are subject to change once local RFPs are approved by the State. MDOC can also provide the number of units broken out by income category once those RFPs are approved. MDOC will also provide information on progress of fulfilling these measures as required by the reporting procedures outlined in the HUD Notice.

	Housing Units
Financed	5
Acquisition / Rehab	25
Land Bank	5
Demolished	350
New Construction	75

CERTIFICATIONS

1. Affirmatively furthering fair housing. The jurisdiction will affirmatively further fair housing, which means that it will conduct an analysis to identify impediments to fair housing choice within the jurisdiction, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting the analysis and actions in this regard.
2. Anti-lobbying. The jurisdiction will comply with restrictions on lobbying required by 24 CFR parts 87, together with disclosure forms, if required by that part.
3. Authority of Jurisdiction. The jurisdiction possesses the legal authority to carry out the programs for which it is seeking funding, in accordance with applicable HUD regulations and other program requirements.
4. Consistency with Plan. The housing activities to be undertaken with NSP funds are consistent with its consolidated plan, which means that NSP funds will be used to meet the congressionally identified needs of abandoned and foreclosed homes in the targeted area set forth in the grantee's substantial amendment.
5. Acquisition and relocation. The jurisdiction will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601), and implementing regulations at 49 CFR part 24, except as those provisions are modified by the Notice for the NSP program published by HUD.
6. Section 3. The jurisdiction will comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and implementing regulations at 24 CFR part 135.
7. Citizen Participation. The jurisdiction is in full compliance and following a detailed citizen participation plan that satisfies the requirements of Sections 24 CFR 91.105 or 91.115, as modified by NSP requirements.
8. Following Plan. The jurisdiction is following a current consolidated plan (or Comprehensive Housing Affordability Strategy) that has been approved by HUD.
9. Use of funds in 18 months. The jurisdiction will comply with Title III of Division B of the Housing and Economic Recovery Act of 2008 by using, as defined in the NSP Notice, all of its grant funds within 18 months of receipt of the grant.
10. Use NSP funds \leq 120 of AMI. The jurisdiction will comply with the requirement that all of the NSP funds made available to it will be used with respect to individuals and families whose incomes do not exceed 120 percent of area median income.

- 11. Assessments.** The jurisdiction will not attempt to recover any capital costs of public improvements assisted with CDBG funds, including Section 108 loan guaranteed funds, by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements. However, if NSP funds are used to pay the proportion of a fee or assessment attributable to the capital costs of public improvements (assisted in part with NSP funds) financed from other revenue sources, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than CDBG funds. In addition, with respect to properties owned and occupied by moderate-income (but not low-income) families, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than NSP funds if the jurisdiction certifies that it lacks NSP or CDBG funds to cover the assessment.
- 12. Excessive Force.** The jurisdiction certifies that it has adopted and is enforcing: (1) a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and (2) a policy of enforcing applicable State and local laws against physically barring entrance to or exit from, a facility or location that is the subject of such non-violent civil rights demonstrations within its jurisdiction.
- 13. Compliance with anti-discrimination laws.** The NSP grant will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), the Fair Housing Act (42 U.S.C. 3601-3619), and implementing regulations.
- 14. Compliance with lead-based paint procedures.** The activities concerning lead-based paint will comply with the requirements of part 35, subparts A, B, J, K, and R of this title.
- 15. Compliance with laws.** The jurisdiction will comply with applicable laws.

Signature/Authorized Official

Date

Appendix A – Maps

Number of Occupied Mobile Home Units Built Prior to 1980 by County

